REMARKS

Request for withdrawal of finality of previous Office Action

Applicant respectfully submits that the previous Office Action was improperly made final. In particular, Applicant submitted arguments regarding the rejection based upon Mae in view of JP '837. The Examiner appears to have overlooked those arguments, maintained the rejection, and has not indicated why Applicant's arguments were not considered persuasive. Since it appears that Applicant's arguments were improperly overlooked, and the requirements of 35 U.S.C. § 132(a) were not satisfied, the Office Action was improperly made final.

Applicant therefore respectfully requests that the finality of the previous Office Action be withdrawn.

Amendment summary

The subject matter of claims 23-25 have been incorporated into claims 10, 11, and 22, respectively, and claims 10, 11 and 22 have been placed in independent form.. Claims 23-25 and withdrawn claims 1-9 and 12-21 have been canceled.

No new matter is added by this Amendment, and Applicant respectfully requests entry of the Amendment.

Status of the claims

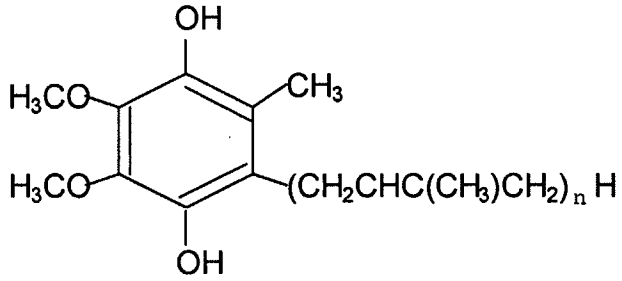
Claims 10-11 and 22-25 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fujii et al. (U.S. Patent No. 7,015,252) (hereinafter "Fujii"). In addition, claims 10-11 and 22-25 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over

Mae et al. (U.S. Patent 6,184,255) and in view of JP 52042837 (hereinafter "Mae" and "JP '837" respectively).

Response to rejection under 35 U.S.C. § 102 based on Fujii

Claims 10-11 and 22-25 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fujii. Applicant respectfully traverses, because Fujii does not disclose or suggest that administration of a composition containing oxidized coenzyme Q_{10} or reduced coenzyme Q_{10} protects liver functions and reduces an increase in GPT or GOT activity in blood.

Present claim 10 recites a method for protecting liver functions of a mammal, which reduces an increase in GPT or GOT activity in blood, and which comprises administering to a mammal a composition for protecting liver functions, which comprises reduced coenzyme Q represented by formula (1):



(1)

In formula (1), n represents an integer in the range of 1 to 12.

Fujii discloses that an oral administration of a composition containing oxidized coenzyme Q_{10} or reduced coenzyme Q_{10} to SD rats reduces urinary 80H-dG level (see Example 1 of Fujii), which is an oxidative stress marker. Fujii also teaches a relationship between oxidative stress and hepatic cirrhosis (see column 1, lines 26 to 29 of Fujii).

However, Fujii does not directly demonstrate that a reduction of an oxidative stress is effective for protection of liver functions, and does not disclose or suggest a reduction of an increase in GPT or GOT activity in blood. Instead, Fujii merely recites a number of diseases, without demonstrating that a large oxidative stress is necessarily a cause of those diseases or that a reduction of an oxidative stress necessarily remedies those diseases.

Accordingly, Applicant respectfully submits that Fujii does not disclose or suggest that an oral administration of a composition containing oxidized coenzyme Q_{10} or reduced coenzyme Q_{10} protects liver functions and reduces an increase in GPT or GOT activity in blood.

Applicant therefore submits that the presently claimed invention is not anticipated by or rendered obvious by Fujii, and respectfully requests the reconsideration and withdrawal of this rejection.

Response to rejection under 35 U.S.C. § 103 based on Mae in view of JP '837

Claims 10-11 and 22-25 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mae in view of JP '837.

Applicant first notes that it appears that Applicants' arguments submitted on January 15, 2009 were overlooked in the Office Action dated April 29, 2009, and respectfully requests that the Examiner consider those arguments (and address them if not persuaded). In particular, Applicant submitted arguments that a person having ordinary skill in the art would interpret JP '837 as teaching that hypertrophy of the liver is a symptom which is associated with cardiac disorders. Applicant respectfully requests that the Examiner address Applicant's positions.

In addition, Applicant submits that a person having ordinary skill in the art would not understand JP '837 to teach or disclose the presently claimed invention. JP '837 teaches only

that coenzyme Q_{10} may be applicable to the protection or treatment of hypertrophy of the liver. However, JP '837 does not show any experimental data indicating the efficacy of coenzyme Q_{10}. Further, there is no evidence in JP '837 that hypertrophy of liver is directly associated with an increase in GPT or GOT activity in blood. Therefore a person having ordinary skill in the art reviewing Mae and JP '837 would not understand that the administration of oxidized or reduced coenzyme Q_{10} protects liver functions and reduces an increase in GPT or GOT activity.

In addition, Applicant hereby submits the attached partial English translation of the document "Internal Medicine," which concerns hypertrophy of the liver. The "Internal Medicine" document supports Applicant's position that a person having ordinary skill in the art would interpret JP '837 as teaching that hypertrophy of liver is a symptom which is associated with cardiac disorders.

In view of the above, Applicant respectfully submits that the presently claimed invention is not anticipated by or rendered obvious by Mae in view of JP '837. Applicant therefore respectfully requests the reconsideration and withdrawal of this § 103 rejection.

Conclusion

In view of the above, entry of this Amendment reconsideration, and allowance of remaining claims 10, 11 and 22 of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local Washington, D.C., telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/ Travis B. Ribar /

Travis B. Ribar
Registration No. 61,446

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: August 31, 2009